IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 34496 of 2007(F)

PETITIONER:

P.A.FRANCIS
ASSISTANT TALUK SUPPLY OFFICER
(NOW ON DEPUTATION AS JUNIOR MANAGER)
CIVIL SUPPLIES CORPORATION, KOCHI.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

1. STATE OF KERALA
   REPRESENTED BY THE SECRETARY TO GOVERNMENT
   FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS
   DEPARTMENT,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF CIVIL SUPPLIES
   COMMISSIONERATE OF CIVIL SUPPLIES,
   THIRUVANANTHAPURAM.

3. THE DEPARTMENTAL PROMOTION COMMITTEE
   (LOWER) FOR MAKING PROMOTION TO THE POST OF
   TALUK SUPPLY OFFICER, REPRESENTED BY ITS
   CONVENOR, COMMISSIONER OF CIVIL SUPPLIES,
   COMMISSIONERATE OF CIVIL SUPPLIES,
   THIRUVANANTHAPURAM.

4. K.A.ABDUL RASHEED, JUNIOR MANAGER
   KERALA STATE CIVIL SUPPLIES CORPORATION
   TALUK DEPOT, THODUPUZHA.

5. T.P.THRESIA, ASST. TALUK SUPPLY OFFICER
   TALUK SUPPLY OFFICE, CHERTHALA.

6. O.KRISHNAKUMARI, JUNIOR MANAGER
KERALA STATE CIVIL SUPPLIES CORPORATION
OFFICE OF THE REGIONAL MANAGER
PALAKKAD.

7. P.V.SASIDHARAN, ASST,
TALUK SUPPLY OFFICER,
TALUK SUPPLY OFFICE,
THALASSERY.

8. A.AHAMMED BASHEER, JUNIOR MANAGER
KERALA STATE CIVIL SUPPLIES CORPORATION
TALUK DEPOT, KALPATTA.

9. N.GOVINDA PILLAI,
ASST, TALUK SUPPLY OFFICER
TALUK SUPPLY OFFICE, ADOOR.

10. P.P.HAREENDRAN, ,MANAGER
KERALA STATE CIVIL SUPPLIES CORPORATION
SUPPLY CO SUPER MARKET, KANNUR.

BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 34496 OF 2007

Dated this the 17th day of October, 2007

JUDGMENT

The grievance of the petitioner is that the Municipality has illegally constructed a road through his property which had an original extent of 49 cents from out of which, according to the petitioner, 38 cents was acquired for the National Highway Bypass and 11 cents is the remaining extent. The petitioner had approached this Court earlier and this Court passed Ext.P1 judgment. Pursuant to Ext.P1, the Municipality issued Ext.P2 order rejecting the petitioner's claim. It was in the light of Ext.P2 that the petitioner filed complaint before the Ombudsman who passed Ext.P4. Under Ext.P4 the Ombudsman has accepted the stand of the Municipality that if documents are produced by the petitioner, the Municipality will be ready to have a measurement of the properties taken and accordingly disposed of the complaint directing the Municipality to conduct measurement of the properties on the basis of the title documents and to pay compensation, if any, due to the petitioner. The counsel for the Municipality in my opinion is justified in submitting that so long as Ext.P2 stands, it will be difficult for the petitioner to seek implementation of Ext.P4. However, if the petitioner has a genuine grievance, the same has to be redressed. Accordingly, I dispose of the

Writ Petition issuing the following directions:

The petitioner will file objections to Ext.P2 within three weeks of his receiving copy of this judgment along with the objections. The petitioner will file photocopies of all relevant documents upon which the petitioner relies for claim of title to the property. Once objections and documents are filed, the Municipality will make arrangements to have a measurement of the properties on the basis of the documents. Measurement as directed above will be conducted within six weeks of the petitioner filing objections and producing documents. If on the measurement it is revealed that any portion of the petitioner's property has been utilised by the Municipality for construction of road and that the petitioner has not been paid any compensation, the Municipality will determine the payable compensation on the basis of the market value of the land and communicate the decision to the petitioner. If the petitioner is aggrieved by the decision, it is open to him to challenge the decision.

PIUS C. KURIAKOSE, JUDGE

btt